

P.S-Revenue Department-Proceedings against Sri D. Babu Rao, M.R.O (Retd)-Gokavaram, East Godavari District-Sanction under Rule 9 of APRP Rules,1980-Cancelled -Orders-Issued.

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REVENUE (VIG.II) DEPARTMENT

G.O.Ms.No.

Dated:11.12.2009

Read

G.O.Ms.No: 446 REV (VIG.II) DEPT, Dt.21.03.09

ORDER:

Orders issued in the G.O read above, is hereby cancelled.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ASUTOSH MISHRA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Spl. C.S & the Chief Commissioner
Of Land Administration, Hyderabad.

The Collector, East Godavari District.

Copy to :
Sri D. Babu Rao, M.R.O (Retd)
(through the CCLA, Hyderabad)

PARAWISE REMARKS IN THE O.A.No.10446/2009 FILED BY SRI YEJALA PRASAD RAO, TAHSILDAR (DISMISSED), OFFICE OF THE TAHSILDAR OFFICE, DATIRJULU (M), VIZIANAGARAM DISTRIT

Para 1 to 5 : No Remarks.

Para 6 (a) to (c) : No Remarks.

Para-6 (d) :

The contention in expectation that the applicant was reinstated on 16.01.2004 vide CCLA's Ref.No.VS I (3)/690/01, dt.16.01.2004 and thereafter he is continuing working are denied. After considering the material available on record the Special judge rightly observed that the theory of the Accused Officer that PW-1 asked him to mutate the name of his wife in the Pattadar Pass Books, when he refused to the same, PW-1 bore grudge is far from probabilities and it is unbelievable.

Para-6 (e):

The contention of the Applicant that the Government all of a sudden issued G.O.Ms.No.820 on 07.08.2009 and next day i.e 08.06.2009 that the Spl. Judge pronounced the Judgment, is hereby denied. The Judgment pronounced by the Spl.Judge for ACB Cases, Visakhapatnam in C.C.No.7/2003 on 08.06.2009 and Government issued G.O on 07.08.2009 after a lapse of two months.

Para- 6 (f):

The contention excepting to the extent that the applicant preferred appeal before High Court of A.P and suspending the sentence of imprisonment passed by Spl.Judge pending disposal of the appeal and his health conditions are hereby denied. The contention that in similar matters the Hon'ble Tribunal granted interim directions i.e suspending the proceedings of the dismissal orders, consequent on account of conviction of

Spl.Judge for ACB cases by virtue of judgment pronounced by Hon'ble High Court in a writ petition No.5444/07 between Sri K. venkata Rama Reddy, A.P.E.P.D.C.L and others is hereby denied. The purport of judgment is what was suspended by the court is only sentence i.e one relating to imprisonment, neither conviction nor sentence of payment of fine were suspended and they are operating against the petitioner. Mere stay of sentence does not have effect of taking away the basis of order of dismissal. The Supreme Court time and again made it clear in Lal Sai Kunte Vs Nirmal Sinha and others reported in 2007 SCC (3) page 149 and K. C. Sareen VsCBI, Chandigarh 2001 (5) Supreme 437 that when public servant who is convicted of corruption is allowed to continue to hold public office it would impair the morale of other public servants manning such office and consequently, that would corrode the already shrunk confidence of the people in public office besides demoralizing the other honest public servants who would be the colleagues or subordinates of the convicted persons. It is necessary that court should not aid the public servants who stands convicted for corruption charges to hold any public office, until he is exonerated after conducting a judicial adjudication at the appellate or revision court.

It is also pertinent to submit that it is a settled principle of law that the disciplinary authority is empowered to impose penalty on a Government servant on ground of conduct which has led to his conviction on a criminal charge and the penalty that should be imposed in a case of proven bribery as per Rule 25 of the A.P.C.S (CC&A) Rules, 1991 is dismissal from service. As such, Rule 25 of A.P.C.S (CC&A) Rules, 1991 authorized the competent authority to impose penalty.

It is submitted that the Hon'ble Supreme Court have made an observation in the cae of Dy Directorof Collegiate Education (Admn) Vs S. Nagoor Meera reported in AIR 1995 S.C, 1364 that " taking proceedings for and passing orders of dismissal, removal or reduction in the rank of a Govt servant who has been convicted by a Criminal Court is not barred merely

because the sentence or order is suspended by the appellate court or on the ground that the said Govt Servant /Accused has been released on bail pending the appeal". The Apex Court further observed that " what is really relevant is the conduct of the Government Servant which has led to his conviction on criminal charge. The Respondent has been found guilty of corruption by a criminal court and until the said conviction is set aside by the appellate or other higher court , it may not be advisable to retain such persons in service. Hence the applicant was rightly dismissed from service vide G.O 820 Rev (Vig.II) Dept, dt. 07.08.2009.

Based on the Appeal filed by the Applicant, the Hon'ble High Court was pleased to suspend only the execution of sentence that was passed against the Applicant but his conviction was not suspended. Rule 25 (1) of A.P.C.S (CC&A) Rules, 1991 deals with the Special Procedure in certain cases and it clearly lays down that a penalty can be imposed on the ground of conduct leading to conviction on a criminal charge without having to follow a procedure laid down under Rule 20 to 24 there of. Such action could be taken without waiting for filing of appeal or the outcome of appeal, if portion of Rule 25 of APCS (CC&A) Rules, 1991 read as "Not notwithstanding anything contained in Rule 20 to 24, where penalty is imposed on a Government Servant on the ground of conduct which has led to his conviction of criminal charge, the disciplinary authority may consider the

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circumstances of the case and make such orders thereon as it deems fit". As such, Rule 25 of A.P.C.S (C.C.& A) Rules, 1991 authorized the competent authority to impose penalty.

The respondents submit that after conclusion of the trial and after considering the entire material on record, the learned Spl. Judge for ACB Cases, Visakhapatnam recorded a finding that the applicant is guilty.

In G.O.Ms.No.2 G.A (Ser-C) Dept, dt.4.1.1999 Government directed that in all proven cases of misappropriation, briber, corruption etc., penalty of dismissal from service shall be imposed. In view of the amendment to Rule 9 (x) of A.P.C.S (CC&A) Rules, 1991 as per G.O.Ms.No.458, dt.22.9.09 of G.A.

(kSer-C) Dept, provided that in all proved cases of misappropriation, bribery, corruption, moral turpitude, forgery and outraging modesty of women, the penalty of dismissal shall be imposed. As such issuing the G.O.Ms.No.820, Rev (Vig.II) Dept, dt.7.8.09 dismissing the applicant by the 3rd respondent is not illegal and arbitrary. Therefore, there are no grounds for the Honourable Tribunal to interfere with the order of dismissal passed against the applicant.

Para-7,8,11 & 12: No remarks.

Para 9 & 10:

In view of the factual position elucidated above and legal position the subject application is not maintainable under law and there are no merits in the application filled by the applicant. Under the above enumerated facts and circumstances the O. A is liable to be dismissed in the interest of justice as the relief claimed by the applicant is not tenable.

M.RAMAIAH
CHIEF VIGILANCE OFFICER &
JOINT SECRETARY TO GOVERNMENT

COURT CASE
MOST URGENT

GOVERNMENT OF ANDHRA PRADESH
REVENUE (VIG.II) DEPARTMENT

Memo No.53222/Vig.II (1)/2009

Dated:04.12.2009

Sub: O.A.No.12258/09 filed by Sri J. Pardha Sarathi, Tahsildar,
Dachepalli Mandal, Guntur District-Reg.

Ref:Orders of Hon'ble A.P.S.T, dt.01.02.2009 in O.A.NO.12258
Of 2009 filed by Sri J. Pardha Sarathi, Tahsildar,Dachepalli
Mandal, Guntur District

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The attention of the Collector, Guntur District is invited to the reference cited wherein the Hon'ble A.P.A.T, Hyderabad have directed to produce the file relating to the suspension orders issued against Sri filed Sri J. Pardha Sarathi, Tahsildar, Dachepalli Mandal, Guntur District by 15.12.2009. He is therefore, requested to take urgent necessary action in the matter and submit the compliancwe to Government.

M.RAMAIAH
CHIEF VIGILANCE OFFICER &
JOINT SECRETARY TO GOVERNMENT

To
The Collector, Guntur District.
The Spl.C.S & the Commissioner
Of Land Administration, Hyderabad.

// Forwarded by Order //

SECTION OFFICER

